



BILLING CODE 9112-FL

DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS-2020-0044]

Agency Information Collection Activities: Post-Award Contract, DHS Form 700-23, 700-26

AGENCY: Department of Homeland Security (DHS).

ACTION: 60-Day Notice and request for comments; Extension without change of a currently approved collection, 1600-0003.

SUMMARY: The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This process is conducted in accordance with 5 CFR 1320.1

ADDRESSES: You may submit comments, identified by docket number Docket # DHS-2020-0044, at:

- Federal rulemaking Portal: <http://www.regulations.gov>. Please follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number Docket # DHS-2020-0044. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received,

go to <http://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:

The Department of Homeland Security (DHS) collects information, when necessary, in administering public contracts for supplies and services. The information is used to determine compliance with contract terms placed in the contract as authorized by the Federal Property and Administrative Services Act (41 U.S.C. 251 et seq.), the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1), and the Homeland Security Acquisition Regulation (HSAR) (48 CFR Chapter 30). Respondents submit information based on the terms of the contract; the instructions in the contract deliverables mandatory reporting requirements; and correspondence from acquisition personnel requesting post-award contract information. The least active contracts and the simplest contracts will have little to no data to report. The most active and complex contracts, however, will contain more reporting requirements. DHS believes that some of this information is already readily available as part of a company's business processes and that the largest businesses use computers to compile the data. However, a significant amount of time is spent correlating information to specific contract actions and gathering information for more complex contract actions.

The prior information collection request for OMB No. 1600-0003 was approved through May 31, 2022 by OMB, and includes the following:

- 3052.204-70 Security requirements for unclassified information technology resources. *(Required in all solicitations and contracts that require submission of*

an IT Security Plan.) This clause applies to all contractor systems connected to a DHS network and those contracts where the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems. The contractor is asked to prepare, provide and maintain an IT Security Plan.

- 3052.204-71 Contractor employee access. *(Required when contractor employees require recurring access to Government facilities or access to sensitive info.)*

Contractors may be subject to background investigations and will have to provide information as required by the DHS Security Office. The information requested is in addition to the information requested through Standard Form (SF) 86.

- 3052.205-70 Advertisements, Publicizing Awards, and Releases. *(Required for all contracts exceeding Simplified Acquisition Threshold.)* Contractors may have to provide copies of information related to advertisements and release statements to receive approval for publication.

- 3052.209-72 Organizational Conflict of Interest, paragraphs (f) and (g) *(Included in solicitations and contracts where a potential organizational conflict of interest exists and mitigation may be possible.)* Contractors will have to provide information related to actual or potential conflicts of interest and a mitigation plan.

- 3052.209-75 Prohibited Financial Interests for Lead System Integrators.
(Required in solicitations and contracts for the acquisition of a major system when the acquisition strategy envisions the use of a lead system integrator or when the contractor will be the lead system integrator.) Contractors will have to provide

information related to changes in financial interests.

- 3052.209-76 Prohibition on Federal Protective Service Guard Services Contracts with Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony, paragraph (h). *(Section 2 of the Federal Protective Service Guard Contracting Reform Act of 2008, Pub. Law 110-356, generally prohibits DHS from entering into a contract for guard services under the Federal Protective Service (FPS) guard services program with any business concern owned, controlled, or operated by an individual convicted of a serious felony.)* The notification required by paragraph (h) applies to any contractual instrument that may result in the issuance of task orders. Contractors will have to provide information on any felony conviction of personnel who own, control or operate a business during the performance a contract.
- 3052.215-70 Key personnel or facilities. *(Required in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel or facilities.)* Contractors will have to provide notice of and documentation related to changes in key personnel for evaluation, including, resumes; description of the duties the replacement will assume; description of any change in duties and confirmation that such change will not negatively impact contract performance.
- 3052.216-71 Determination of Award Fee. *(Required in solicitations and contracts that include an award fee.)* Contractor may submit a performance self-evaluation for each evaluation period.

- 3052.217-91 Performance (USCG). *(Required in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Also required in negotiated solicitations and contracts to be performed outside the United States.)* Contractor must request prior approval to conduct dock and sea trials.
- 3052.217-92 Inspection and Manner of Doing Work (USCG). *(Required in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Also required in negotiated solicitations and contracts to be performed outside the United States.)* Contractor must maintain complete records of all inspection work and shall make them available to the Government during performance of the contract and for 90 days after the completion of all work required.
- 3052.217-95 Liability and Insurance (USCG). *(Required in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Also required in negotiated solicitations and contracts to be performed outside the United States.)* Contractor shall provide evidence of the insurance and give the Contracting Officer written notice after the occurrence of a loss or damage for which the Government has assumed the risk. If any loss or damage will result in a claim against the Government, the contractor shall provide notice.
- 3052.219-70 Small Business subcontracting plan reporting. *(Generally included*

in solicitations and contracts that offer subcontracting possibilities and are expected to exceed \$700,000) Contractors must use Electronic Subcontracting Reporting System (eSRS) to submit subcontracting reporting data.

- 3052.219-71 DHS Mentor-Protégé Program. *(Included in solicitations where subcontracting plans are anticipated)* The amount of credit given to a contractor mentor firm for protégé developmental assistance costs must be calculated on a dollar for dollar basis and reported in the Summary Subcontract Report via the Electronic Subcontracting Reporting System (eSRS) at www.esrs.gov.
- 3052.222-70 Strikes or Picketing Affecting Timely Completion of the Contract Work. *(Generally included in solicitations and contracts)* Contractor must take all reasonable and appropriate action to end a strike or picketing. Delay caused by a strike or by picketing which constitutes an unfair labor practice is not excusable unless the Contractor takes all reasonable and appropriate action to end such a strike or picketing, such as the filing of a charge with the National Labor Relations Board, the use of other available Government procedures, and the use of private boards or organizations for the settlement of disputes. The contractor may be required to submit information to the contracting officer.
- 3052.222-71 Strikes or Picketing Affecting Access to a DHS Facility. *(Generally included in solicitations and contracts)* Contractor is responsible if strike or picketing is directed at the Contractor and impedes access by any person to a DHS facility. Contractor must take all reasonable and appropriate action to end a strike or picketing. The contractor may be required to submit information to the contracting officer.

- 3052.223-70 Removal or disposal of hazardous substances – applicable licenses and permits. *(Required in solicitations and contracts involving the removal or disposal of hazardous waste material)* Contractors will have to provide evidence of licenses and permits to perform hazardous substance removal.
- 3052.223-90 Accident and Fire Reporting (USCG). *(Included in solicitations and contracts involving the removal of hazardous waste material)* Contractor must report incidents involving fire or accidents at a worksite. Contractors may provide this information using a state, private insurance carrier, or Contractor accident report form.
- 3052.228-91 Loss of or Damage to Leased Aircraft (USCG). *(Included in any contract for the lease of an aircraft)* In the event of loss of or damage to an aircraft, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and the Contractor must promptly assign such rights in writing to the Government.
- 3052.228-93 Risk and Indemnities (USCG). *(Included in any contract for the lease of an aircraft)* Requires the contractor to provide the Government with evidence of insurance.
- 3052.235.70 Dissemination of Information-Educational Institutions. *(Included in contracts with educational institutions for research that are not sensitive or classified)* Contractors must provide advanced electronic copies of articles to the Government covering the results of research it plans to publish.

The purpose of this collection revision is to add, for purposes of entering into other transaction agreements pursuant to 6 U.S.C. 391, 6 U.S.C. 596(1), and 49 U.S.C.

106(l)(6), Form 700-26, Other Transaction Agreement, and Form 700-23, Other Transaction Agreement Modification. On the forms, respondents submit an Employer Identification Number, as well as the business' name, address and title. Respondents must also identify the authorized business representative's personal name, and must include a signature.

The information requested is used by the Government's contracting officers and other acquisition personnel, including technical and legal staff, for various reasons such as (1) determining the suitability of contractor personnel accessing DHS facilities; (2) to ensure no organizational conflicts of interest exist during the performance of contracts; (3) to ensure the contractor maintains applicable licenses and permits for the removal and disposal of hazardous materials; and (4) to otherwise ensure firms are performing in the Government's best interest. Failure to collect this information would adversely affect the quality of products and services DHS receives from contractors.

Many sources of the requested information use automated word processing systems, databases, spreadsheets, project management and other commercial software to facilitate preparation of material to be submitted. With Government-wide implementation of e-Government initiatives, it is commonplace within many of DHS's Components for submissions to be electronic.

Information collection may or may not involve small business contractors, depending on the particular transaction. The burden applied to small businesses is the minimum consistent with the objective of ensuring contract compliance and protecting the interest of the Government.

Less frequent incidence of collecting such information as resumes indicating the

level of contractor expertise, permits and licenses, and inspection reports will negatively affect the quality of products and services DHS receives from contractors. Potentially, contractors could perform on contracts without sufficient experience and expertise and could perform contracts with outdated licenses and negative inspection reports, placing the Department's operations in jeopardy. Additionally, less frequent collection of information related to organizational conflicts of interest inhibit DHS from determining the existence of true conflicts of interest during the performance of contracts.

Failure to collect this information would adversely affect the quality of products and services DHS receives from contractors. For example, potentially, contractors who are lead system integrators could acquire direct financial interests in major systems the contractors are contracted to procure, which would compromise the integrity of acquisitions for the Department. In addition, contractors who own, control or operate a business providing protective guard services could possess felony convictions during the performance of contracts, putting the Department at risk. Furthermore, contractors could change key personnel during the performance of contracts and use less experienced or less qualified personnel to reduce costs, which would adversely affect DHS's fulfillment of its mission requirements.

Disclosure/non-disclosure of information is handled in accordance with the Freedom of Information Act, other disclosure statutes, and Federal and agency acquisition regulations.

The burden estimates provided above are based upon definitive contract award data reported by DHS and its Components to the Federal Procurement Data System (FPDS) for FY 2019. No program changes occurred; however, the burden was adjusted

to reflect a decrease in the number of respondents within DHS for FY 2019 in the amount of 6,612, as well as a decrease in the average hourly wage rate.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ANALYSIS:

AGENCY: Department of Homeland Security (DHS)

Title: Post-Award Contract

OMB Number: 1600-0003

Frequency: On occasion

Affected Public: Private Sector

Number of Respondents: 6015

Estimated Time Per Respondent: 4.5

Total Burden Hours: 90,812

Robert Dorr,

Acting Executive Director, Business Management Directorate.

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